

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

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MATTHEW TESLA,

Plaintiff,

-against-

DRGUT PELINKOVIC  
a/k/a DOUG PELINKOVIC,

Defendant,  
-----X

Case No.: 24-cv-8901

**NOTICE OF REMOVAL**

**PLEASE TAKE NOTICE** that pursuant to 28 U.S.C. §§ 1332(a), 1441, and 1446, Defendant DRGUT PELINKOVIC a/k/a DOUG PELINKOVIC, by and through his attorneys, Sichenzia Ross Ference and Carmel LLP, hereby removes this action from the Supreme Court of the State of New York, County of Bronx to the United States District Court for the Southern District of New York. In support of this Notice of Removal, Defendant avers as follows:

1. On November 15, 2024, Plaintiff MATTHEW TESLA (“Plaintiff”) commenced an action in the Supreme Court of the State of New York, County of Bronx, captioned *Matthew Tesla v. Drgut Pelinkovic a/k/a Doug Pelinkovic*, Index No. 818431/2024E (the “State Action”). A true and correct copy of the Summons and Complaint, which constitute all pleadings and process in this action to date (the “Complaint”), is annexed hereto as “Exhibit A.”

2. The Complaint asserts claims against Defendant for, among other things, dissolution of an oral partnership, breach of contract, unjust enrichment, and an accounting.

3. Defendant maintains that Plaintiff’s claims are without merit.

4. Defendant has not made any filings in the State Action.

5. This Notice of Removal is being filed in the United States District Court for the Southern District of New York, the district in which the State Action is pending.

6. This Notice of Removal is being filed within thirty days of Defendants' receipt of service of the Summons and Complaint, as required by 28 U.S.C. §1446(b).

7. This Court has original jurisdiction over this action under 28 U.S.C. §1332(a)(1), because this is an action between citizens of different states, and the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

#### **DIVERSITY OF CITIZENSHIP**

8. The Complaint alleges Plaintiff's residence is in the State of Oregon, thereby rendering Plaintiff a citizen of the State of Oregon for diversity purposes. *See* Exhibit A, at 4, ¶ 6; *Diego Beekman Mut. Hous. Ass'n Hous. Dev. Fund Corp. Hdfc. V. Dish Network, L.L.C.*, No. 15 Civ. 1094, 20016 WL 1060328, at \*7 (S.D.N.Y. Mar. 15, 2016) (An individual's residence at the time of commencement of an action provides *prima facie* evidence of his domicile which determines citizenship.); *Willis v. Westin Hotel Co.*, 651 F.Supp. 598, 601 (S.D.N.Y. 1986).

9. Additionally, Defendant is a citizen of the State of New York.

10. As a result, the parties are completely diverse pursuant to 28 U.S.C. § 1332(a).

#### **AMOUNT IN CONTROVERSY**

11. Diversity jurisdiction under 28 U.S.C. §1332 also requires that the amount in controversy, exclusive of interest and costs, be in excess of \$75,000.00.

12. The Complaint alleges that Plaintiff's damages exceed the sum of \$75,000.00 exclusive of interest and costs. (*See* Exhibit A, at 4, ¶ 9.) The Complaint also claims entitlement to profits of Defendant's cryptocurrency assets, which Plaintiff values in the millions. (*Id.* at 7, ¶ 30.)

**NON-WAIVER OF DEFENSES**

13. By removing this action from the Supreme Court of the State of New York, County of Bronx, Defendant does not waive any defenses available to him.

14. By removing this action from the Supreme Court of the State of New York, County of Bronx, Defendant does not admit any of the allegations in Plaintiff's Complaint.

**CONCLUSION**

15. Complete diversity exists between Plaintiff, a citizen of the State of Oregon, and Defendant, a citizen of New York. The amount in controversy exceeds \$75,000.00. Accordingly, this Court has original jurisdiction over this action under 28 U.S.C. §1332(a).

16. Defendant will provide Plaintiff with prompt written notice of the filing of this Notice of Removal as required by 28 U.S.C. §1446(d) and will file a copy of this Notice of Removal with the Clerk of the Supreme Court of the State of New York, County of Bronx, where the Complaint was originally filed.

**WHEREFORE**, Defendant respectfully requests that the State Action be removed from the Supreme Court of the State of New York, County of Bronx, to the United States District Court for the Southern District of New York.

Dated: November 21, 2024  
New York, New York

Respectfully submitted,

SICHENZIA ROSS FERENCE CARMEL LLP

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